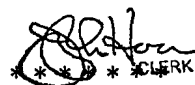


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**  
SEP 12 2008

  
CLERK

\*\*\*\*\*

LANCE C. SWALLEY,

CIV 08-4044

Petitioner,

-vs-

ORDER

DOUGLAS L. WEBER, Warden,  
South Dakota State Penitentiary

Respondent.

\*\*\*\*\*

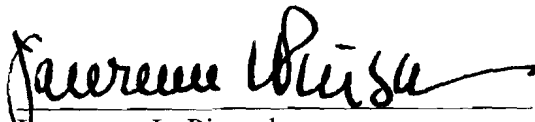
Petitioner, Lance C. Swalley, an inmate at the South Dakota State Penitentiary who is serving a four-year sentence of imprisonment for the crime of aggravated assault, has applied for a writ of habeas corpus under 28 U.S.C. § 2241, Doc. 1. Petitioner claims that under the Constitution, laws, and treaties of the United States, the State of South Dakota has no criminal jurisdiction over him, a Native American citizen. § 2241(c).

Petitioner's claims are without merit. It is well established that States have criminal jurisdiction over reservation Indians for crimes committed off the reservation. *Mescalero Apache Tribe v. Jones*, 411 U.S. 145, 148-49, 93 S.Ct. 1267, 36 L.Ed.2d 114 (1973). There is no allegation that the offense took place on an Indian reservation.

Accordingly, it is ORDERED that Petitioner's writ of habeas corpus pursuant to 28 U.S.C. § 2241, Doc. 1, is DENIED.

Dated this 12<sup>th</sup> day of September, 2008.

BY THE COURT:

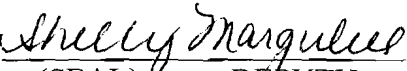
A handwritten signature in black ink, appearing to read "Lawrence L. Piersol", written over a horizontal line.

Lawrence L. Piersol

United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY:   
(SEAL) DEPUTY